

ORIGINAL  
MEMORANDUM



36

TO: Docket Control  
FROM: Ernest G. Johnson  
Director  
Utilities Division

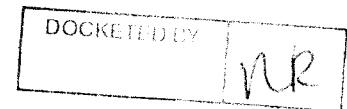
EA for EGJ

Arizona Corporation Commission

DOCKETED

MAY 16 2008

DATE: May 16, 2008



RE: IN THE MATTER OF THE APPLICATION OF ADELPHIA  
TELECOMMUNICATIONS, INC. FOR CANCELLATION OF ITS  
CERTIFICATE OF CONVENIENCE AND NECESSITY FOR RESOLD  
LONG DISTANCE TELECOMMUNICATION SERVICES (DOCKET NO.  
T-03828A-05-0353)

IN THE MATTER OF THE APPLICATION OF ADELPHIA  
TELECOMMUNICATIONS, INC. FOR APPROVAL OF THE SALE OF  
ASSETS TO TELECOM MANAGEMENT, INC. D/B/A PIONEER  
TELEPHONE (DOCKETS NOS. T-03828A-05-721 AND T-04277A-05-  
0721)

Attached is the Staff Report for the above Applications to cancel the Certificate of Convenience and Necessity ("CC&N") held by Adelphia Telecommunications, Inc. ("Adelphia") and for approval of the sale of Adelphia's assets to Telecom Management, Inc. d/b/a Pioneer Telephone ("TMI"). Staff recommends cancellation of Adelphia's CC&N and approval of the sale of Adelphia's assets to TMI.

EGJ:JFB:tdp

Originator: John F. Bostwick

AZ CORP COMMISSION  
DOCKET CONTROL

2008 MAY 16 A 10:18

RECEIVED

SERVICE LIST FOR: ADELPHIA TELECOMMUNICATIONS, INC. AND TELECOM  
MANAGEMENT, INC. DB/A PIONEER TELEPHONE  
DOCKET NOS.: T-03823A-05-0353, T-03828A-05-0721 AND T-04277A-05-0721

Mr. Edward Gothard  
3500 North Causeway Boulevard,  
Suite 1442  
Metairie, Louisiana 70002

Ms. Karen Wolfinger  
Main at Water Street  
Coudersport, Pennsylvania 16915

Ms. Janice Alward  
Chief Counsel, Legal Division  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

Mr. Ernest G. Johnson  
Director, Utilities Division  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

Ms. Lyn Farmer  
Chief Administrative Law Judge, Hearing Division  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

**STAFF REPORT**  
**UTILITIES DIVISION**  
**ARIZONA CORPORATION COMMISSION**

**ADELPHIA TELECOMMUNICATIONS, INC.**  
**TELECOM MANAGEMENT, INC. D/B/A PIONEER TELEPHONE**

**DOCKET NOS. T-03828A-05-0353, T-03828A05-0721 AND**  
**T-04277A-05-0721**


**IN THE MATTER OF THE APPLICATION OF ADELPHIA**  
**TELECOMMUNICATIONS, INC. FOR CANCELLATION OF ITS**  
**CERTIFICATE OF CONVENIENCE AND NECESSITY FOR RESOLD LONG**  
**DISTANCE TELECOMMUNICATION SERVICES**

**IN THE MATTER OF THE APPLICATION OF ADELPHIA**  
**TELECOMMUNICATIONS, INC. FOR APPROVAL OF THE SALE OF ASSETS TO**  
**TELECOM MANAGEMENT, INC. D/B/A PIONEER TELEPHONE**

**MAY 16, 2008**

## STAFF ACKNOWLEDGMENT

The Staff Report for Adelphia Telecommunications, Inc. and Telecom Management, Inc. d/b/a Pioneer Telephone, Docket Nos. T-03828A-05-0353, T-03828A-05-0721, and T-04277A-05-0721 were the responsibility of the Staff member listed below. John F. Bostwick was responsible for the review and analysis of Adelphia Telecommunications, Inc.'s Application to cancel its Certificate of Convenience and Necessity and sell its assets to Telecom Management, Inc. d/b/a Pioneer Telephone.

  
\_\_\_\_\_  
John F. Bostwick  
Administrative Services Officer II

## TABLE OF CONTENTS

	<u>PAGE</u>
INTRODUCTION.....	1
BACKGROUND .....	1
STAFF'S ANALYSIS .....	2
RECOMMENDATIONS.....	3

## **INTRODUCTION**

On May 17, 2005, Adelphia Telecommunications, Inc. ("Adelphia") filed an application to cancel its Certificate of Convenience and Necessity ("CC&N") to provide resold long distance telecommunications services in Arizona. On June 10, 2005, Staff deemed Adelphia's Application to be insufficient and sent its First Set of Data Requests to Adelphia.

Adelphia responded to Staff's First Set of Data Requests on June 20, 2005. In its response, Adelphia requested that the Commission stay or suspend Adelphia's Application to discontinue long distance services in Arizona until Adelphia is able to determine whether a sale would proceed.

On October 12, 2005, Adelphia filed a letter to notify the Commission that the United States Bankruptcy Court of the Southern District of New York approved the transfer of Adelphia's assets to Telecom Management d/b/a Pioneer Telephone ("TMI"). The assets transferred to TMI were Adelphia's customer base. Adelphia stated in its letter to the Commission that its customers would be given an opportunity to switch their service to a carrier other than TMI if they so desired.

On April 4, 2006, Staff sent a letter to Adelphia requesting clarification on how it wished to proceed with the application to cancel its CC&N. On April 25, 2006, Adelphia stated that due to the sale of Adelphia's long distance services and customer base in Arizona to TMI, Adelphia wanted to confirm that all certificates, tariffs and price lists relating to Adelphia's long distance services had been cancelled, and that Adelphia has no further obligations regarding the long distance services it previously provided in Arizona.

On May 16, 2006, the Administrative Law Judge assigned to this matter issued a Procedural Order in which Staff was required to respond to Adelphia's April 25, 2006 letter. In its Response, Staff recommended that Docket Nos. T-03828A-05-0353 and T-04277A-05-0721 be consolidated. Staff stated that consolidation of these dockets would ensure that all the issues concerning Adelphia's transfer of customers and CC&N cancellation would be considered in the appropriate context.

## **BACKGROUND**

On August 24, 2000, the Commission, in Decision No. 62847, originally granted a CC&N to Adelphia to provide competitive resold interexchange telecommunications services within Arizona. TMI was granted a CC&N to provide resold long distance telecommunications services in Arizona on February 15, 2006 in Decision No. 67594.

## STAFF'S ANALYSIS

In its Application, Adelphia stated that it made a business decision to discontinue providing long distance service in Arizona to approximately 240 telephone numbers. Attached to the Application is a copy of the letter that Adelphia sent on May 11, 2005 to notify its customers that it will discontinue long distance telephone service on July 28, 2005. In the letter, Adelphia instructed its customers to select and initiate service with an alternate long distance carrier by July 28, 2005 and to look in the local telephone book for companies providing long distance service in the area. In its Application, Adelphia stated that it does not hold deposits for any Arizona customers and that it will provide legal notice in every county affected by its plan to discontinue long distance services. A copy of the legal notice of Adelphia's Application to cancel its CC&N was attached to its Response to Staff's First Set of Data Request, Item No. 10 which was filed on June 20, 2005.

Adelphia filed its responses to Staff's Second Set of Data Requests on July 3, 2006. Adelphia and TMI informed Adelphia's customers on October 19, 2005 that Adelphia and TMI entered into an asset purchase agreement (Adelphia's Response to Staff's Second Set Data Requests, Item No 3). Under the agreement, TMI was to acquire the assets of Adelphia and will provide telecommunications services to Adelphia's customers. TMI stated in its customer notice letter that Adelphia's rates and terms and conditions under the customer's existing contract would not change as a result of the transaction. Adelphia's customers would be able to have TMI as their service provider or choose a carrier of their choice.

Pursuant to Arizona Revised Statutes ("A.R.S.") § 40-285 (A), the sale of Adelphia's assets to TMI requires approval by the Commission. Neither Adelphia nor TMI is a Class A Utility and therefore, the Public Utility Holding Companies and Affiliated Interests rules, A.C. C. R14-2-801 to R14-2-806 et seq. do not apply.

In Decision No. 62847 dated August 24, 2000, Adelphia is not authorized to charge its customers any prepayments, advances, or deposits. According to Adelphia's Response to Staff Data Request JFB2-2, it did not request or collect advances, deposits or prepayments from any Arizona customer. As a result, Adelphia is not required to make any plans to refund deposits as required in A.A.C. R14-2-1107(A) 3.

On June 20, 2005, Adelphia reported, in its Response to Staff's First Set of Data Requests, Item No. 5, that it provided long distance services to 229 customers in Arizona. Adelphia stated that approximately 200 residential customers were transferred to TMI in August of 2005. In its Response to Staff JFB2-16, Adelphia stated that the last Adelphia customer was transferred to TMI on February 9, 2006, the date the sale of Adelphia's customer base to TMI closed. The only asset TMI acquired from Adelphia was the customer base (Adelphia's Response to Staff Data Request JFB2-6).

Adelphia stated, in its Response to Staff Data Requests JFB2-17 and JFB2-18, that it had met the requirements of the Commission's slamming and cramming rules. Adelphia provided proof that it met the requirement of the Federal Communications Commission's ("FCC") rules for streamlined approval of the transfer of the customer base. A copy of Adelphia's FCC Public Notice Streamlined Pleading Cycle Released December 20, 2005 was filed with the Commission on July 3, 2006.

On June 20, 2005, Adelphia provided a copy of the Affidavit of Publication of the Legal Notice of its Application to discontinue service. Legal notice was published in *The Arizona Republic* on May 27, 2005. To date, there have been no objections or responses for a hearing filed regarding Adelphia's Application to discontinue telecommunications services. Adelphia did provide legal notice as required in A.A.C. Rule R14-2-1107(B).

The Adelphia has complied with the requirements established in A.A.C. Rule R14-2-1107. Adelphia's customers have been notified of the proposed sale transaction and have been informed that they have the right to select an alternative long distance provider if they choose to do. Legal notice of the Application has been published in all counties affected by the Application. Adelphia does not hold any deposits for customers in Arizona and a plan to refund deposits is not required. Adelphia's CC&N should be cancelled if the proposed sale of Adelphia's assets to TMI is approved by the Commission.

In its request to cancel its CC&N, Adelphia also requested the cancellation of any of its tariffs on file. Adelphia has a tariff, Arizona Tariff No. 1, on file with the Commission. This tariff should be cancelled when the CC&N is cancelled by the Commission.

Staff has confirmed that TMI filed revisions to its Tariff AZ Corp. Com. No. 1 in Docket No. T-04277A-06-0778 on December 11, 2006 to add a rate plan to include customers acquired from Adelphia in this matter. Docket No. T-04277A-06-0778 remains opened pending the approval of the transfer of Adelphia's assets to TMI.

Consumer Services Section of the Utilities Division reports that there have been no complaints, inquiries, or opinions filed against Adelphia or TMI from January 1, 2005 through April 11, 2008. Also, Consumer Services states that the Corporations Division reported that Adelphia merged into another entity, and there is no record of the surviving entity. According to the Compliance and Enforcement Section of the Utilities Division, there are no outstanding compliance items or issues that need to be addressed by Adelphia or TMI.

## **RECOMMENDATIONS**

Adelphia does not exist as a going concern and it's Application to cancel its CC&N in Docket No. T-03828A-05-0353 should be approved. Since Adelphia provided proof that it met the requirement of the FCC rules for streamlined approval of the transfer of the customer



base and all of Adelphia's customers in Arizona have been transferred to TMI, Staff believes that approval of the sale of Adelphia's assets (its customer base) to TMI and the cancellation of Adelphia's CC&N and tariff is in the public interest. There are numerous other carriers in Arizona that offer similar services as Adelphia.

Since Adelphia does not have customers in Arizona; Staff recommends that Adelphia's request for the sale of its assets and the transfer of Adelphia's customers to TMI be approved. Staff further recommends the cancellation of Adelphia's CC&N authority to provide resold long distance telecommunications services in Arizona. Upon cancellation of its CC&N, Adelphia will no longer be authorized to provide resold long distance telecommunications services in Arizona and therefore, will not be subject to the requirements of Decision No. 62847. Finally, Staff further recommends that Adelphia's Arizona Tariff No. 1, be cancelled at the time that its CC&N is cancelled by the Commission.